

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSHUA S. GOODRICH and
CINDY L. GOODRICH,

Plaintiff,

v.

Civil Action No. 06-cv-1435 (TJM)(DEP)

WFS FINANCIAL, INC., NY RECOVERY, INC.,
RENAISSANCE RECOVERY SOLUTIONS, LLC,
JACQUE R. HALL, MICHAEL P. WEILAND, and
PAUL E. HOLT

Defendants.

**PLAINTIFFS FIRST MOTION TO AMEND COMPLAINT AND TO
DENY DEFENDANT WFS FINANCIAL, INC.'S MOTION TO DISMISS
COMPLAINT**

Please take notice that upon the affirmation of Kenneth R. Hiller dated February 6, 2007, the undersigned attorney for the Plaintiffs will move this Court on a time, date and place as the Court may direct for an order 1) granting Plaintiff permission to file and serve upon the Defendants an amended complaint (a copy of which is annexed hereto as exhibit A), 2) denying Defendant WFS Financial, Inc.'s Motion to Dismiss this case, and 3) such other and further relief as to the Court may deem just and equitable.

Dated: February 6, 2007

s/Kenneth R. Hiller
Kenneth R. Hiller, Esq.
Attorney for the Plaintiff
2001 Niagara Falls Boulevard
Amherst, NY 14228
(716) 564-3288
Email: khiller@kennethhiller.com

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Defendants.

Kenneth R. Hiller, under penalties of perjury, affirms that the following statements are true and correct to the best of my knowledge, information and belief:

1. That your deponent is the attorney of record for the Plaintiff herein, and makes this affirmation in support of the instant motion, and in opposition to Defendant's motion to dismiss this case.
2. That Plaintiffs commenced this action by the filing of a summons and complaint on November 29, 2006 seeking damages against the Defendants herein for violations of the New York Uniform Commercial Code, the New York Deceptive Practices Act, the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. §§ 1692 et seq.) and New York common law in connection with an attempted repossession of an automobile.
3. Plaintiff has served the Summons and Complaint upon all corporate Defendants as of this date, but not the individual defendants.
4. Defendant WFS Financial Services, Inc. (hereinafter "WFS") has moved to dismiss this case on December 6, 2005 alleging that the complaint does not state a cause of action upon which relief may be granted.

PLAINTIFF'S MOTION TO AMEND COMPLAINT

5. One of the grounds upon which Defendant seeks to dismiss this action is that the complaint states that the Defendant did not have Plaintiff Joshua Goodrich is not a debtor or obligor with standing to sue WFS under the New York Uniform Commercial Code. Said Plaintiff seeks to amend the complaint to allege that he, in fact, did have an interest

in the repossessed automobile by virtue of the payments he made on the underlying car loan, and by virtue of the permission granted him by the owners to use the vehicle.

6. The Plaintiffs also seek to add claims that Defendants failed to exercise due care in training, hiring and supervising their contractors, subcontractors and the individual defendants, and these failures caused or contributed to the injuries suffered by Plaintiffs.

7. That the amendment will not cause any undue delay or prejudice to Defendant in this case. Most scheduling orders would give parties *months* to amend their pleadings. There is also no bad faith on the part of Plaintiff.

Dated: February 6, 2007
Amherst, New York

s/Kenneth R. Hiller
Kenneth R. Hiller
Attorneys for Plaintiff
2001 Niagara Falls Boulevard
Amherst, NY 14228
(716) 564-3288
Email: khiller@kennethhiller.com